IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1001 OF 2006

V.B. Randive & 2 Ors. ... Petitioners

Vs.

The Union of India & 2 Ors. ... Respondents

Mr. Vinay Masurkar i/b Mr. K.R. Yelwe for the Petitioners.

Mr. S.V. Bharucha for the Respondents.

CORAM : SWATANTER KUMAR, C.J. &
SMT. RANJANA DESAI, J.

DATED : JULY 10, 2007.

P.C.:-

1. After we have heard the learned counsel appearing for the parties for sometime, it was commonly stated before us that as regards the plea of dying cadre, the factual basis of which was denied by the learned counsel appearing for the petitioners herein, no material was stated by the Respondents in their Affidavit in Reply filed before the Central Administrative Tribunal and the Central Administrative Tribunal has not adjudicated upon the plea of dying cadre in its consequent order. Hence, the order is stated to be *sub-silentio* in that behalf. By consent of the learned counsel

appearing for the parties, we set aside the judgment of the Central Administrative Tribunal impugned in this writ petition, not on merit but only on the ground that the question of dying cadre being the question of fact that may be considered by the Central Administrative Tribunal.

2. The Original Application is remanded to the Central Administrative Tribunal. Central Administrative Tribunal shall rehear the parties and dispose of the Original Application in accordance with law after adjudicating upon the plea of dying cadre. The parties will be at liberty to file their affidavits and material, if any, as regards the plea of dying cadre.

3. The Writ Petition is disposed of accordingly with no order as to casts.

[CHIEF JUSTICE]

[SMT. RANJANA DESAI, J.]